

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

WILLIS FLOYD WILEY, #753383	§	
VS.	§	CIVIL ACTION NO. 6:05cv1
RAYMOND E. THOMPSON, ET AL.	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the complaint should be dismissed with prejudice. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit.

The Plaintiff filed a series of objections. He initially complained that the Court ordered the prison system to submit a *Martinez* Report. *See Martinez v. Aaron*, 570 F.2d 317 (10th Cir. 1978). The Fifth Circuit, however, has approved of the use of *Martinez* Reports as a screening device of lawsuits by prisoners. *See Norton v. Dimazana*, 122 F.3d 286 (5th Cir. 1997); *Cay v. Estelle*, 789 F.2d 318 (5th Cir. 1986). The objection lacks merit. He also objected to the dismissal of his American With Disabilities Act claims for failure to exhaust administrative remedies arguing that exhaustion was not required, but prisoners must without exception exhaust their administrative

remedies before proceeding to federal court. *Porter v. Nussle*, 534 U.S. 516, 524 (2002); *Shaw v. Bennett*, 90 Fed. Appx. 76 (5th Cir. 2004). His various objections to the conclusion that there was no ADA violation likewise lack merit. *Id.* Finally, his objections about the additional reasons for dismissing supervisory officials lack merit since he has not shown that they were personally involved in any violations of his rights nor shown that there was a causal connection between them and the violation of any of his rights. *Thompkins v. Belt*, 828 F.2d 298, 303-04 (5th Cir. 1987). The Plaintiff's various objections lack merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the cause of action is **DISMISSED** with prejudice. All motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 26th day of August, 2005.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE